

1  
2  
3  
4  
5 UNITED STATES DISTRICT COURT  
6 DISTRICT OF NEVADA

7 \* \* \*

8 TRISTIAN SMITH-KENNEDY,

9 Plaintiff,

10 v.

11 INTERNAL REVENUE SERVICE,

12 Defendant.

Case No. 2:13-cv-0960-APG-NJK

**Order Dismissing Case**

13  
14  
15 On September 4, 2013, Magistrate Judge Koppe entered her Order [Dkt. #3]  
16 dismissing Plaintiff's Complaint [Dkt #1-1] without prejudice. Plaintiff was permitted until  
17 October 4, 2013 to file an Amended Complaint correcting the deficiencies in the original  
18 Complaint, which were pointed out in Magistrate Judge Koppe's Order. Plaintiff failed to  
19 file an Amended Complaint by October 4, so on October 10 Magistrate Judge Koppe  
20 issued a Report and Recommendation [Dkt. #8] recommending that this case be  
21 dismissed. Plaintiff did not object to that Report and Recommendation, but on November  
22 19 he filed an Amended Complaint [Dkt. #11].

23 The court has reviewed the Amended Complaint and the matters set forth in  
24 Judge Koppe's Order and in her subsequent Report and Recommendation. The  
25 Amended Complaint deletes most of the factual allegations contained in the original  
26 Complaint, but it contains almost no facts to support any claims against the Defendant.  
27 Moreover, the Amended Complaint again attempts to improperly assert a claim against  
28 the Internal Revenue Service based upon 42 U.S.C. § 1983, and fails to prove that the

1 United States consented to be sued (to the extent the Amended Complaint attempts to  
2 allege claims not based on violations of 42 U.S.C. § 1983). Magistrate Judge Koppe's  
3 Order [Dkt. #3] explains in detail why these defects were fatal to the original Complaint.  
4 Those same fatal defects apply to the Amended Complaint. Therefore,

5 **IT IS HEREBY ORDERED** that the Report and Recommendation [Dkt. #8] is  
6 accepted.

7 **IT IS FURTHER ORDERED** that Plaintiff's Amended Complaint is DISMISSED.  
8 The Clerk of the Court is directed to enter Judgment accordingly.

9 Dated: December 17, 2013.

10   
11 \_\_\_\_\_  
12 ANDREW P. GORDON  
13 UNITED STATES DISTRICT JUDGE  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28